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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,296	04/09/2001	Tsuyoshi Kaito	F-6931	6886
75	590 01/16/2003			
Jordan and Hamburg			EXAMINER	
122 East 42nd Street New York, NY 10168			YUAN, DAH WEI D	
			ART UNIT	PAPER NUMBER
,			1745	0
			DATE MAILED: 01/16/2003	$\mathcal{A}$

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No.   Application No.   Application No.   Box   Art Unit   Description   Descr									
Examiner Dah-Wei D. Yuan	· V	Application No.	Applicant(s)						
Dah-Wei D. Yuan	•	09/829,296	KAITO ET AL.	1					
The MAILING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Estatesions of time may be weighted under the provision of 3°C FR 1.13(a). In no event, however, may a reply be timely filed after SIX (8) MONTHS from the mailing date of this communication.  If the period for mayly be weighted under the provision of 3°C FR 1.13(a). In no event, however, may a reply be timely filed after SIX (8) MONTHS from the mailing date of this communication.  If the period for mayly even the sales of the communication after the mailing date of this communication. SIX (8) MONTHS from the mailing date of this communication. The sales of this communication is the sale of the contented period for reply will by saleute, cause the application to become ABANDONED (35 U.S. € 133).  Any reply received by the Office later ban three moments after the mailing date of this communication, even if timely filed, may reduce any cannot patient term adjustment. See 3°C FR 1.764(b).  Status  1) Responsive to communication(s) filed on	Office Action Summary	Examiner	Art Unit						
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  - Edensons of line may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filled share 31k, 05M/THS from the maining date of this communication.  - If NO period for reply is specified above, the maximum slatutory period will apply and will expley SIX (8) MONTHS from the maining date of this communication.  - If NO period for reply is specified above, the maximum slatutory period will apply and will expley SIX (8) MONTHS from the maining date of this communication.  - Failure to reply within the set or centended period for reply will, by statute, cause the application to become ABANDONED (30 st. S. § 133).  - Any reply received by the Office later than those months after the maining date of this communication, even if timely filled, may reduce any seamed patient and adjustment. See 37 CFR 1.736(a).  - Pailure to reply within the set or centended period for reply will, by statute, cause the application to become ABANDONED (30 st. S. § 133).  - Any reply received by the Office later than those months after the maining date of this communication, even if timely filled, may reduce any seamed patient timely filled, may reduce any seamed patient time adjustment. See 37 CFR 1.736(a).  - This action is FINAL.  - 2b) This action is non-final.  - 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 c.D. 11, 453 O.G. 213.  Disposition of Claims  - 4) Claim(s) 1-2 is/are pending in the application.  - 4a) Of the above claim(s) is in a particular and any claim of the cause of Claims (s) 1-2 is/are rejected.  - 7) Claim(s) 1-2 is/are rejected to .  - 8) The drawing(s) filed on		Dah-Wei D. Yuan	1745						
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ② MONTH(S) FROM THE MAILLING DATE OF THIS COMMUNICATION.  Extensions of union may be available under the provisions of 37 CFR 1.36(a). In no event, however, may a reply be timely lifed.  If the period for reply seporation and shows is less than thirty (20) days, a reply within the statutory minimum of thirty (30) days will be considered drinely.  If the period for reply seporated above, the maximum statutory period unlappy and will engages XE (6) MONTER from the mailing date of lifes communication.  Failure to reply within the set or extended period for reply will be set or extended period for reply will be set on extended period for reply will be set on extended period for reply will be set on the major than the more more patients.  Any reply received by the Office and such him how common starts the mailing date of lifes communication, even if timply flied, may reduce any  Status  1) Responsive to communication(s) filed on		ppears on the cover sh	eet with the correspondence a	ddress					
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1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s)	2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) 🔲 No	tice of Informal Patent Application (P						

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Art Unit: 1745

## NON-AQUEOUS ELECTROLYTE RECHARGEAABLE BATERY

Examiner: Yuan S.N. 09/829,296 Art Unit: 1745 January 9, 2003

## **Specification**

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

#### Claim Objections

2. The use of the term "thereby" in claims 1,4 is improper. It is noted that the courts have held that functional "thereby" statements do not define any structure, and accordingly cannot serve to distinguish over the prior art. See <u>In re Mason</u>, 114 USPQ 127, 44 CCPA 937 (1957). Appropriate corrections are required.

#### Claim Rejections - 35 USC § 112

- 3. The following is a quotation of the second paragraph of 35 U.S.C. 112:
  - The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
- 4. Claims 4-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite. The phrase "ring- like" renders the claim indefinite because the term "-like" fails to describe a specific structure.

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### Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (e) the invention was described in-
- (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
- (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).
- 6. Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by Quinn et al. (US 6,342,826 B1).

Quinn et al. teach a rechargeable battery comprising a positive electrode, a negative electrode, and a switch (40 in Figure-1). The switch having closed and open positions moves from one position to the other in response to an elevated temperature. Circuit devices, including the switch, are used to interrupt charging or discharging of the battery in the event of thermal runaway. Figure 29 shows the charging circuit (M) as the external power source which is in electrical contact with the battery. With respect to claims 2 and 3, the switch can be a shape memory alloy (a temperature-sensitive element) that moves from an open position to a closed position by changing to its recovered shape in response to an elevated temperature in the chamber of the battery. With respect to claim 4, case (200) contains a wrapped multi-layer assembly J that forms the battery electrodes. One electrode of the electrode assembly J is attached to fixed contact (10) by wire (210) while the other electrode is connected to battery case 200. In the arrangement shown in Figure 28, fixed contact (10) is the positive battery terminal

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while the battery case and the lid are the negative terminal. However, it will be recognized that reverse arrangements also are possible. The switch (40) element is in electrical contact with the external terminal (30) and internal terminal (10). A snap-acting flexible metal foil diaphragm (16) (a conductive element) is electrically connected to the battery case and electrically insulated from both terminals by insulator C and insulator 12 as shown in Figure 28. The switch can make electrical contact with the diaphragm when pressure builds up (due to temperature increases) as shown in Figure 12. As result, the power to the charging circuit (external power source) is cut as indicated in Figure 29. See Abstract; Column 1, Lines 5-31; Column 5, Lines 1-65; Column 8, Lines 15-28; Column 9, Lines 18-37.

## Allowable Subject Matter

7. Claims 5-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 5-7 would be allowable because the prior art does not disclose or suggest the electrical insulation is effected by a ring-like gasket disposed on an inner peripheral side of the ring-like conductive element, the external terminal and the internal terminal being arranged on an inner side of the ring-like gasket, the ring-like conductive element having an inwardly extending protrusion passing through a hole formed in the ring-like gasket towards between the external terminal and the internal terminal.

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Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure. Shiota et al. (US 6,187,472) teach a battery in which the internal electrode connector

and the external circuit connector is formed by a shape memory alloy which warps with the rise

in ambient temperature. Tateno et al. (US 6,045,939) teach the use of a thermal switch that has a

mechanism for electrically connecting the cathode and the anode at a portion other than an active

material-containing layer in accordance with an increase in the battery temperature.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Dah-Wei D. Yuan whose telephone number is (703) 308-0766.

The examiner can normally be reached on Monday-Friday (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Patrick J. Ryan, can be reached on (703) 308-2383. The fax phone numbers for

the organization where this application or proceeding is assigned are (703) 872-9310 for regular

communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is (703) 308-0661.

Dah-Wei D. Yuan January 10, 2003 Patrick Ryan
Supervisory Patent Examiner
Technology Center 1700